

**CALIFORNIA COASTAL COMMISSION**

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## COASTAL DEVELOPMENT PERMIT APPLICATION

**Application number.....3-00-093**

**Applicant.....William & Mary Louise Shellooe**

**Project location.....**Scenic Road, at 3 NE of 12th Ave. (backing onto San Antonio Street at 3 NW of 12<sup>th</sup> Ave.), Carmel, Monterey County.

**Project description.....**Demolition of existing one-car garage and two single-story single family dwellings of approx. 550 sq. ft. each; and, construction of a new 2,180 sq.ft. single family dwelling on an existing 5,075 sq. ft. lot (Block A4, Lot 9, APN 001-291-005). Includes 80 cu.yds. of grading for 2-car garage on lower (Scenic Road) level.

**File documents.....**City of Carmel-by-the-Sea: RE 99-58 for demolition; EA 99-01 for project environmental evaluation; City Council final action on June 6, 2000.

**Staff recommendation....Approval with Conditions**

**I. Summary:** The proposed project is located within the City of Carmel-by-the-Sea. Carmel is a very popular visitor destination, as much for the style, scale, and rich history of its residential, commercial, and civic architecture, as for its renowned shopping area, forest canopy and white sand beach. Carmel is especially notable for the character of both public and private development within the context of its native pine forest. In particular, as a primarily residential community, Carmel's predominantly small scale, well-crafted homes play a key role in defining the special character of the City.

Applicant proposes to demolish an existing residential structure, and to replace it with a new residence on the same site. Pursuant to Categorical Exclusion E-77-13, a coastal development permit is required for the demolition portion of the project (but not the new construction). There is a concern that the existing pattern of such demolitions and rebuilding may prejudice the ability of the City to complete its Local Coastal Program (LCP) in a manner that would be in conformance with Coastal Act policies. In particular, the LCP will need policies that respect and protect the keystone elements of Carmel's special character—the beach, the forest canopy, the compact scale and design of its built environment, the context and integrity of its historic resources. At the same time, the LCP will also need to provide reasonable standards for restoration, additions, or where warranted, replacement. These policies will be determined through a community process that the City expects will culminate with the completion of an LCP Land Use Plan by April, 2001.

In this case, while the project will result in a significant change (a 98% increase in building scale and replacement of two small residences with a single larger residence), there are similarly sized structures close by along Scenic Road. No removal of significant native trees would be required. The existing stucco-and-tile structures on the site have been substantially modified from the wooden cottages seen in the earliest photos, although the scale of the existing buildings is consistent with the traditional Carmel Cottage style. The issue of whether or not these buildings represent a potential historic resource is the subject of a current legal dispute.

Regardless of the outcome of the current debate regarding historic resources, the cumulative effect of such demolitions raises concerns with respect to the overall protection of the City's special character. This concern is being addressed in part through the City's existing review process for tree removal, historic resources, and design review. Further refinements to these processes are expected from the LCP completion effort now underway.

Pending LCP completion, additional mitigation—in the form of a relocation/salvage condition—is warranted in this case, because of the existing building's cottage character and/or its potential as a historic resource. Also, the project requires excavation in an area of potential archaeologic sensitivity; potential impacts can be addressed through an archaeologic mitigation plan.

Therefore, while the proposed demolition will result in a change of character, as conditioned such change will not be substantial enough to undermine the effort to complete a certifiable LCP within the timeframe projected by the City. Accordingly, as conditioned to provide for reuse or salvage of the existing structure to the extent feasible, and for archaeologic mitigation, the project is consistent with the policies of Chapter 3 of the Coastal Act and will not prejudice the City's ability to complete its Local Coastal Program.

## **II. Staff Recommendation on Coastal Development Permit**

The staff recommends that the Commission, after public hearing, **approve** the proposed project subject to the standard and special conditions below. Staff recommends a **YES** vote on the motion below. A yes vote results in approval of the project as modified by the conditions below. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission approve Coastal Development Permit Number 3-00-093 subject to the conditions below and that the Commission adopt the following resolution:*

***Approval with Conditions.** The Commission hereby grants a permit for the proposed development, as modified by the conditions below, on the grounds that the modified development is consistent with the requirements of Chapter 3 of the California Coastal Act of 1976 (Coastal Act), will not prejudice the ability of the City of Carmel to prepare a local coastal program conforming to Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act (CEQA).*

### III. Conditions of Approval

#### A. STANDARD CONDITIONS

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1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

#### B. SPECIAL CONDITIONS

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1. **Relocation or Salvage.** PRIOR TO COMMENCEMENT OF REMOVAL OR DEMOLITION OF THE EXISTING STRUCTURE, permittee shall submit, for review and approval by the Executive Director, the following measures to implement relocation or salvage:
  - a. Documentation that arrangements have been made to move the existing building(s) to another location within the City; or,
  - b. If relocation is not feasible, then documentation of the structure(s) shall be completed in accordance with the Secretary of Interior's (HABS) standards; and, a materials salvage plan shall be prepared. Such plan shall provide for identification, recovery and reuse of all significant exterior architectural elements of the existing building(s) that can be feasibly incorporated in new construction on or off site. To the extent salvageable materials exceed on-site needs, they may be sold, exchanged or donated for use elsewhere (with preference for

recipients proposing reuse within Carmel). The plan shall specify that salvageable materials not used on site, sold or exchanged shall be offered without charge, provided recipient may be required to bear the cost of removal. Unsound, decayed, or toxic materials (e.g., asbestos shingles) need not be included in the salvage plan. The plan shall include a written commitment by permittee to implement the plan.

Relocation shall not be deemed infeasible unless: 1) a Licensed Historical Architect, Licensed Historical Contractor, or equivalent qualified expert has determined that relocation of the structure would not be feasible, or if feasible, would not result in worthwhile preservation of building's architectural character; or, 2) it has been noticed by appropriate means as available for relocation, at no cost to recipient, and no one has come forward with a *bona fide* proposal to move the existing structure within a reasonable time frame (i.e., within 60 days from date of first publication and posting of availability notice). Such notice of availability shall be in the form of a public notice or advertisement in at least two local newspapers of general circulation (at least once a week for four weeks), as well as by posting on the site and by other means as appropriate.

Submitted salvage plans shall be accompanied by a summary of all measures taken to encourage relocation, copies of posted notice, text of published notices/advertisements, and evidence of publication, along with a summary of results from this publicity, a list of relocation offers (if any) that were made and an explanation of why they were not or could not be accepted.

Nothing in this condition is intended to limit permittee's right to sell the structure or salvaged portions thereof; nor is permittee required to pay for moving costs, whether the structure is sold or donated.

2. **Archaeologic Mitigation.** PRIOR TO COMMENCEMENT OF ANY EXCAVATIONS, TRENCHING OR OTHER GROUND-DISTURBING ACTIVITIES, permittee shall submit to the Executive Director for review and approval a plan providing for archaeologic monitoring during any such ground-disturbing activities, or evidence from a qualified professional archaeologist (SOPA or equivalent) that no such monitoring is warranted.

Should any potential archaeological resources (including but not limited to midden ash or shellfish debris, projectile points, bone, chipped or ground stone) be discovered during construction, such find shall be immediately reported to the monitoring archaeologist. If such unearthed materials are confirmed as archaeological resources, all work that could damage or destroy these resources shall be temporarily suspended. The monitoring archaeologist shall inspect the project site to evaluate the nature and significance of the archaeological materials and develop appropriate mitigation measures using the standards of the State Historic Preservation Office. This mitigation plan shall be submitted for review by the State Historic Preservation Office (SHPO); then submitted, along with evidence of SHPO review, to the Executive Director for review and approval; and, fully implemented by the property owner.

In addition, in event an archaeologic mitigation plan becomes necessary, the applicant shall record a deed restriction. The deed restriction shall state that for purposes of protecting archaeologic

resources, excavation, trenching, and other ground-disturbing activities can only be undertaken according to the provisions of the approved archaeologic mitigation plan. The plan must be recorded concurrently with the deed restriction as an exhibit.

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## **IV. Recommended Findings and Declarations**

The Commission finds and declares as follows:

### **A. Project Location and Description**

The project site is faces Carmel Bay and Carmel Beach across the aptly-named Scenic Road. This meandering blufftop thoroughfare comprises the primary vantage point for public views of Carmel's highly scenic shoreline. Many attractive and distinctive homes line the inland edge of the road. The road has been converted to one-way traffic flow, in order to more gracefully and safely accommodate pedestrian lateral access along the seaward edge. Close by the project site, at the corner of 12<sup>th</sup> Avenue, a City-owned pedestrian lane provides vertical access from San Antonio St. to Scenic Road and the beach.

The proposed development is on a 5,075 sq.ft. lot, larger than is typical for Carmel. This lot runs all the way through from Scenic Road to the next street up the slope, San Antonio. The site is occupied by two small cottages, commonly referred to as "Periwinkle" and "Sea Urchin." These houses were originally constructed c. 1915, but in a series of modifications between 1964 and 1977 were greatly altered to their present Mediterranean Revival style. A small accessory garage structure and a stucco wall also occupy the parcel. All of these structures are proposed for demolition.

These existing small residential buildings on the site are seen frontally from several important public vantage points, including Scenic Road, the blufftop Coastal Trail, and the public beach. They exhibit attractive proportions and an architectural romanticism popular in coastal California. Their architectural style has been characterized as "Mediterranean cottages." Because of their compact proportions, they are less imposing than the two-story residences that bracket the parcel on either side. While these buildings originated as simple wooden cottages, their origins have been thoroughly obscured with alterations such as decorative Spanish tile and stucco exterior finish--as illustrated by the attached photos. (See Exhibits 3 and 5, attached, for photographs of the existing structures as seen from the Scenic Road side.)

The purpose of the demolition is to clear the lot for a single, larger residence. Like the cottages it replaces, the new design displays certain architectural "character" features associated with the Mediterranean style, such as stucco surfaces, tiled roof, arched openings, special window treatments, etc. See Exhibit 4 for site plan and street elevations of the proposed new structure.

Applicant's architect has modified the roofline of the new building so that it is only slightly higher than the existing maximum roof profile on the site. As a result, the new building—although slightly taller and substantially larger than the existing cottages—will, according to applicant's representative, actually be 5 feet less in height than the adjacent neighboring houses on either side.

Applicant has also represented that an effort will be made to salvage architectural elements from the existing cottages and incorporate them in the new residence.

The new residence will have a two-bay garage on the lower level, facing Scenic Road. This will require excavation of about 80 cubic yards. Because evidence of possible Native American occupation or use can be seen along the adjacent Scenic Road, and a substantial occupation site is recorded from nearby Carmel Point, there is a chance that certain archaeological resources could be present on the lot. As stated in the Draft EIR for the project, "...there is the potential that buried cultural resources may be discovered during project staging or construction activities." Such resources could be impacted by excavation, trenching and other activities associated with residential development.

## **B. LCP History and Status**

The entire City of Carmel falls within the coastal zone, but the City does not yet have a certified LCP. Approximately twenty years ago, the City submitted the Land Use Plan (LUP) portion of its LCP for review by the Coastal Commission. On April 1, 1981, the Commission certified part of the LUP as submitted and part of the LUP subject to suggested modifications regarding beach-fronting property. The City resubmitted an amended LUP that addressed the beach-fronting properties provisions, but that omitted the previously certified portion of the document protecting significant buildings within the City. On April 27, 1984, the Commission certified the amended LUP with suggested modifications to reinstate provisions for protecting significant structures. However, the City never accepted the Commission's suggested modifications and so the LUP certification expired.

The LCP zoning or Implementation Plan (IP) was certified by the Commission subject to suggested modifications on April 27, 1984. However, the City did not accept the suggested modifications and so the IP, too, was never certified.

Predating the City's LCP planning efforts, the Commission in 1977 authorized a broad-ranging categorical exclusion covering most of the area of the City of Carmel (Categorical Exclusion E-77-13). E-77-13 excludes from coastal permitting requirements most types of development not located along the beach and beach frontage of the City; not excluded, however, are demolitions such as that proposed in this case.

The City is currently working on a new LCP submittal (both LUP and IP), funded in part by an LCP completion grant awarded by the Commission. According to City representatives, the Land Use Plan is expected to be submitted for Commission review in April 2001, with the Implementation Plan submittal expected by December 2001.

This current City effort is focused on protecting the significant coastal resources found in Carmel, including the spectacular public beach and recreational amenities along the City's shoreline, the urban forest that uniquely identifies Carmel as "the City within the trees," the substantial riparian and habitat areas (such as Mission Trails Nature Preserve and Pescadero Canyon), and the unique community and visual character of Carmel as exhibited by the style, scale, and rich history of its residential, commercial, and civic architecture. Taken as a whole, these resources combine to form the special character of Carmel; a character that comprises a significant coastal resource worthy of protection in its own right.

### **C. Standard of Review**

Unless and until the Commission has certified any future City LCP submittals, the Commission retains coastal permitting authority over non-excluded development within the City. As a result, although the City's current ordinances and policies can provide context and guidance, the standard of review for this application is the Coastal Act.

### **D. Coastal Development Permit Determination**

#### **1. Community Character**

Sections 30253 and 30251 of the Coastal Act address the issue of preserving the community character of special communities such as Carmel:

*Section 30253(5). New development shall where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

*Section 30251. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality on visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

The Coastal Act defines special coastal communities in terms of their unique characteristics that make them attractive to the visitor. The City of Carmel is a very popular visitor destination as much for the style, scale, and rich history of its residential, commercial, and civic architecture, as for its renowned shopping area and white sand beach. Carmel is made special, in part, by the character of development within City limits.

In particular, as a primarily residential community, the web of residential development in Carmel plays a key role in defining the special character of the City. Carmel is distinctly recognized for its many small, well-crafted cottages. These modest, sometimes quaint residences are associated with the era in which Carmel was known for its resident artists and writers, and functioned as a retreat for university professors and other notables. These little homes were nestled into the native Monterey pine/Coast live oak forest, on a grid of streets that was executed in a way that yielded to trees more than to engineering expediency. This was the context for Carmel's community life and its built character.

**Analysis: Issue Identification.** The primary Coastal Act issues in this application are the protection of public views, and the preservation of Carmel's special community character. Historic resources are an important component of such character values. The issue of whether or not the existing buildings constitute historic resources received considerable attention in the course of the City's approval process. The City, in its Findings for CEQA certification, found

That [the] Carmel Preservation Foundation surveyed this property in 1995 and concluded that it constituted a significant historic resource. That this conclusion, and accompanying documentation, established a fair argument that demolition would result in significant environmental effects.

The Draft EIR for the project (portions attached as Exhibit 5) states

The Periwinkle/Sea Urchin residence was recommended as significant under the City of Carmel-by-the-Sea's significance criteria...[It] was determined to be a significant historical resource under Criterion No. 1 because it conveys the cultural heritage of Carmel-by-the-Sea and under Criterion No. 8 because it embodies unique site conditions that make it a familiar and important visual feature to Carmel-by-the-Sea's citizens (Jones & Stokes Associates, 1999).

This conclusion is retained in the Final EIR. However, the City Planning Commission subsequently found that

...the EIR's determination of an unavoidable significant impact related to Cultural Resources (Historic) is incorrect because the existing structures on the Project site do not constitute "historic structures."

A variety of evidence is cited, including the fact that the buildings have been "...substantially reconstructed since 1963, totally modifying the design character of the buildings..." The statement continues:

The only remaining components of the pre-1930's structures are termite-ridden boards embedded in a segment of the stucco walls and a small section of the living room floor of Periwinkle which is about to collapse into the basement.

The Planning Commission's determination with respect to historical resources was affirmed by



the City Council on June 6, 2000 (see Exhibit 6, attached).

From a Coastal Act perspective, the existing small-scale structures contribute to Carmel's special community character within the meaning of Coastal Act Section 30253(5)--whether or not they constitute a historic resource. In other words, for Coastal Act purposes, the impact of the proposed demolition needs to be addressed primarily in terms of protecting architectural character rather than historical resources. A persistent challenge for the City, in developing its LCP, is the question of how to protect this "cottage character." The companion challenge for the Coastal Commission is how, in the meanwhile, to mitigate the loss, preserve planning options, and avoid prejudicing the outcome of the LCP process. Clearly, at least some of Carmel's cottages will need to be preserved, in the context of a neighborhood of like character. The establishment of a Historic District has been proposed by historic preservation advocates, but has not (yet) been adopted by the City government as policy.

Other Planning Commission Findings address the visual impacts of the proposed new residence. Most relevant for Coastal Act purposes is the following:

As designed and conditioned, the project is visually compatible with the village character of Carmel-by-the-Sea and the character of the surrounding area, including the adjacent residential neighborhood and the adjacent coastal parks and open space areas, and is neither out-of-scale, massive nor imposing.

**Analysis: Alternatives.** As the various planning options are being debated, what options are available when an owner requests demolition to facilitate construction of a new residence? One alternative would be to deny such applications. However, this would result in some inequitable situations, especially in those instances where the existing structure has decayed beyond reasonable repair, or where there is no particular historic or architectural characteristic that demands such a stringent measure, or where the value of an architecturally or historically worthy structure has been severely compromised by the loss of its neighborhood context.

In this case, applicant has provided additional evidence, in the form of architect's and contractor's declarations, to show that rehabilitation or relocation of the existing structures appears infeasible. One reason stated for this is that the existing structures

...appear to be single-wall board-and-batt construction which have been plastered over. These walls have no studs or other structural members capable of providing long-term support...The existing roof structure...is totally inadequate to support the clay tile roof...Significant sagging and deflection...is already apparent...Interior floors are sagging and failing in a number of places. The courtyard has already collapsed.

On the other hand, the architect declares that the new residence "...will incorporate representative samples of the materials and/or details of the existing structures, including...clay barrel tile roof...decorative tiles and the iron gate."

Another alternative is to identify those buildings that contribute to Carmel's special character—

by virtue of their “cottage” style or their contribution as a historic resource—and to provide an opportunity for relocation. In order to maintain historic context, such relocation would ideally be on the same parcel if there is enough space, or elsewhere in Carmel if possible. In this case, the Findings adopted by the City’s Planning Commission state that the “...applicant has offered the City and/or other qualified historical preservation organizations a 90-day option to move the existing structures to another location prior to demolition, but no person or entity has accepted the offer.”

Finally, in those instances where relocation proves to be infeasible or inadvisable, or no one comes forward to claim an offered structure, at least some exterior (or interior) portions of the building may nonetheless be salvaged for reuse in other construction. In this way, not only are materials conserved, but also some of the architectural elements that contribute to the “Carmel character” can be reclaimed and enjoyed again.

**Mitigation, through Relocation or Salvage:** The loss of the existing structures can be appropriately mitigated, in part, through offer for relocation elsewhere within Carmel.

Suitable sites for relocation are relatively scarce within Carmel. While the supply of relocation-worthy structures is likely to substantially outpace the availability of receiver sites within City limits, such relocations from time to time are in fact accomplished in Carmel. A recent example is the Door House, which at its new location will serve as a guest unit. Even though its original specific context is changed, a certain level of mitigation is achieved because the relocated structure is retained within its overall community context.

In this instance, the applicant has already offered the structures for relocation, with no favorable response to date. The likelihood of a successful relocation can be improved by further publicizing the availability of the structures that are proposed for demolition. And, in event relocation is not feasible or no qualified recipients come forward, at least parts of the structures will nonetheless be salvaged and incorporated in the new residence. Any remnant materials in excess of on-site needs can, through a salvage program, eventually be incorporated in other structures in Carmel<sup>1</sup>.

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<sup>1</sup> What if the permit is conditioned to require that the building be offered for relocation or salvage, but there are no takers for reuse within Carmel? The usual demolition expedient is destruction and removal to the nearest landfill. The Coastal Act contains no specific direction regarding structural relocation or salvage of existing buildings. Nonetheless, relocation and salvage would support other Statewide public policy efforts to provide affordable housing, conserve valuable materials, avoid placing unnecessary materials into the wastestream and minimize energy consumption. Therefore, while the purpose of such a condition would clearly be to protect Carmel’s character, the public offering and thoughtful disposition of the structure would also serve the broader public interest-- whether or not relocation is achieved within Carmel in any given instance.

At present, there is no formal relocation or salvage program in Carmel. Informal and commercial channels are already available in the region (e.g., Carmel has at least one shop [Off the Wall] that specializes in salvaged architectural details, and Capitola has the Recycled Lumber Company). There is discussion of a regional program for the Monterey Peninsula area, which would facilitate not only the reuse of structures in Carmel but also support existing programs such as that already in place in the neighbor city of Pacific Grove.

**Analysis: Conclusion.** In the case of this application, the purpose of the proposed demolitions is to facilitate the construction of a replacement residence. The replacement of two small residences by one larger residence will not open the way to new development that would be growth inducing or lead to compromise of an existing urban-rural boundary. Parcels in the vicinity of the subject parcel are developed with single family dwellings at urban densities. All utilities are connected to the existing residential use on this site. There are adequate public services for the proposed new house. As designed to provide off-street parking at the Scenic Road level, parking standards will be met. Additionally, the proposed new house meets City requirements for maximum height, floor area, coverage, and yard setbacks.

As noted above, the case for “Periwinkle” and “Sea Urchin” as historical resources has been rigorously contested in the City’s approval process. Ultimately, the City determined that these existing buildings do not constitute “historic structures” (see Exhibit 6, attached). Nonetheless, the structures proposed for demolition, through modest proportions and harmonious architectural elements, are consistent with the “Carmel cottage” character. The cumulative loss of such structures erodes the overall small-scale character and context of Carmel’s historic neighborhoods. The impact of the proposed demolition therefore needs to be offset through an appropriate mitigation measure.

In this case, the loss of the existing structure can be mitigated, in part, through relocation or salvage of certain architectural elements (as offered by applicant). Relocation—or failing that, salvage—will help to offset the loss of the existing small-scale residences. Considering existing and future avenues for relocating or recycling older buildings, such measures appear appropriate and feasible. To the extent that salvaged materials will find their way back into new construction in Carmel, the requirement to prepare a relocation/salvage plan will provide a limited form of mitigation for impacts on Carmel’s community character. This permit is conditioned accordingly.

The design of the replacement structure reflects some of the architectural style elements found in “Periwinkle” and “Sea Urchin,” will not exceed the height of adjacent residences, and is not expected to detract from public views from the beach or along Scenic Road. These measures and circumstances together provide for reasonable conformance with Coastal Act Sections 30251 and 30253(5), and will help to avoid prejudice to the City’s efforts to prepare an LCP that conforms with Coastal Act policies.

## **2. Archaeologic Resources**

Section 30244 of the Coastal Act requires mitigation of any archaeological impacts: “Where development would adversely impact archaeological ...resources as identified by the State Historic Preservation Officer [SHPO], reasonable mitigation measures shall be required.”

Native American midden sites, a type of archaeological resource identified by SHPO, have been found in the Scenic Road area of Carmel. If such a resource is hidden beneath this site, it could be impacted by the excavations associated with this project. The possibility of archaeological impacts can be offset by a requirement for archaeological monitoring and if necessary, an archaeological mitigation plan. These measures and circumstances together provide for reasonable conformance with Coastal Act Sections 30244, and will help to avoid prejudice to the City's efforts to prepare an LCP that conforms with Coastal Act policies. This permit is conditioned accordingly.

## **3. Potential for Prejudice to LCP Planning Efforts**

Section 30604 of the Coastal Act states in part that a coastal development permit shall be granted if the Commission finds that the development will not prejudice the local government's ability to prepare a Local Coastal Program (LCP) in conformity with the applicable resource protection policies of the Coastal Act. More specifically, Section 30604(a) of the Coastal Act states:

*Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for that conclusion.*

As previously described, the City is currently working on a new LUP submittal. A community planning process is now underway to determine, among other things, the basis for defining Carmel's community character and ways to protect and preserve this character consistent with the Coastal Act.

Each residential demolition results in a significant change to the character of the lot upon which it is situated. In some cases, an existing structure--because of virtues such as architectural style or historical associations—constitutes a significant component of the City's special character all by itself. More commonly, the structure only contributes to the overall impression on the visitor. Thus, the proposed project also affects community character on a cumulative basis. In other words, the effect of this particular demolition/rebuild must be evaluated within the context of the larger pattern of demolition and rebuild in Carmel.

**Development trends:** Over time, Carmel has been changing as its older housing and commercial stock makes way for new developments, usually larger in size and scale. As such, the period since 1990 can be examined to provide a meaningful sample for understanding the change issue in Carmel.

Since 1990, there have been 177 development proposals in Carmel. Of these, 145 projects (or over 80%) involve some form of demolition, rebuilding and/or substantial alteration of residential housing stock in Carmel. This comes out to roughly 13 such residentially related projects per year since 1990; nearly all of these have been approved. Other than the three year period from 1992 – 1994 when a total of 13 applications were received, the number of development proposals in Carmel has been fairly constant until 2000. However, in the year 2000 alone, the Commission has received 44 applications as of October. Of these 44 applications received in the year 2000, 33 involved some form of demolition, rebuilding and/or substantial alteration of residential structures; 17 of the 33 have already been approved this year and 16 remain pending. More applications are arriving—the current average is approximately 3 per month.

Clearly the trend for demolition/rebuild/substantial remodel has been magnified in current years as demand for Carmel properties has outstripped the limited supply represented by the approximately 3,200 parcels within the City limits. However, at the expected rate of approximately 3 demolition applications per month, the cumulative amount of overall change by the target submittal date for the Land Use Plan (April 2001), will be relatively limited. Accordingly, the cumulative adverse effect on community character will, for the short term, continue to be insignificant.

In the event the Commission receives more than the expected number of applications that it has been averaging most recently, the Commission can evaluate such a changed circumstance and revise its approach accordingly.

**Summary:** Reliance on the City's own forestry, design review and historical resource protection procedures, together with monitoring of the application rate trends by Commission staff and the relocation/salvage condition attached to this permit, will be adequate for addressing the mandate of Coastal Act Section 30253 to protect community character (at least for the limited time until the LCP is completed). Therefore, while the proposed demolition will result in a change of character, as conditioned for relocation or salvage such change is not substantial enough to undermine the efforts to complete a certifiable LCP within the timeframe projected by the City. Accordingly, approval of the proposed project will not prejudice the ability of the City to complete its LCP in accordance with Coastal Act requirements.

### **3. California Environmental Quality Act (CEQA)**

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(i) of CEQA

prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

In this case, an Environmental Impact Report (EIR) was prepared for the project, and certified by the City. Commission staff has examined the relevant issues in connection with the environmental impacts of the proposal. In the course of its review, Commission staff identified potential mitigation measures that were suggested by the EIR but required refinement to insure that Coastal Act requirements are met. The Commission finds that, for the reasons stated above, the proposed project, as conditioned to require relocation or salvage of the existing structures and mitigation of any impacts on archaeologic resources, will not have significant adverse effects on the environment within the meaning of CEQA.

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